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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 ROBERT GARCIA, ) Civil No. 07-CV-1006-L(JMA)  
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13 ) Petitioner, )  
14 ) v. ) **ORDER DENYING WITHOUT**  
15 ) **PREJUDICE PETITIONER'S**  
16 ) **MOTION FOR STAY AND**  
17 ) **ABEYANCE [doc. #5]; CASE TO**  
18 ) **REMAIN CLOSED**  
19 ) Respondent. )  
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17 Petitioner filed his petition for writ of habeas corpus on June 1, 2007. On June 8, 2007,  
18 the Court dismissed the petition without prejudice for failure to pay the \$5 filing fee or move to  
19 proceed in forma pauperis. [doc. #2]. Thereafter, petitioner attempted to file a motion for stay  
20 and abeyance of the claims [doc. #3] but the motion was rejected because the petitioner did not  
21 comply with the Court's June 8, 2007 Order. The July 30, 2007 Notice of Document  
22 Discrepancy also note that compliance with the June 8, 2007 Order was required to reinstate the  
23 action.

24 On September 14, 2007, petitioner filed a "corrected motion for stay and abeyance.) [doc.  
25 #5]. The Court accepted the document even though there were discrepancies noted. Having  
26 reviewed the file; however, the Court notes petitioner has not yet complied with the Court's June  
27 8, 2007 Order: **"IN ORDER TO PROCEED WITH THIS ACTION PETITIONER MUST**  
28 **NO LATER THAN AUGUST 6, 2007, (1) SUBMIT A COPY OF THIS ORDER WITH**


1 **THE \$5 FEE OR WITH ADEQUATE PROOF OF HIS INABILITY TO PAY THE FEE; .**  
2 **..”**

3 (Order filed June 8, 2007).

4 Because petitioner has not paid the \$5 fee or provided adequate proof of his inability to  
5 pay the fee within the time provided in the Court’s Order, petitioner’s “corrected motion for stay  
6 and abeyance” is **DENIED WITHOUT PREJUDICE AND AS MOOT** for failure to comply  
7 with the Court’s prior Order. This case remains closed pursuant to the Court’s Order of June 8,  
8 2007.

9 **IT IS SO ORDERED.**

10 DATED: September 26, 2007

11   
12 M. James Lorenz  
United States District Court Judge

13 COPY TO:

14 HON. JAN M. ADLER  
15 UNITED STATES MAGISTRATE JUDGE

16 ALL PARTIES/COUNSEL  
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